

ANTHONY J. WRIGHT
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SEP 27 2019	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

ANTHONY JEROME WRIGHT
PLAINTIFF,

v.

PAUL PENZONE, et al.,
DEFENDANTS

CASE NO. CV-17-04161-PHX-SMB (DMF)

PLAINTIFF'S RESPONSE IN OPPOSITION
TO DEFENDANTS MOTION FOR SUMMARY
JUDGMENT

(THE HONORABLE SUSAN M. BRNOVICH)
(THE HONORABLE DEBORAH M. FINE)

- 1) COMES NOW THAT THE PLAINTIFF ANTHONY J. WRIGHT IN PRO SE STATUS IN
- 2) OPPOSITION TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT WITH TRY TO SHOW THE
- 3) HONORABLE COURT WHY DEFENDANTS MOTION SHOULD NOT BE GRANTED ON ANY OF THE
- 4) COUNTS UNDER RULE 56 OF THE FEDERAL RULES OF CIVIL PROCEDURES AS IT RELATES
- 5) TO COUNT 1 OF THE PLAINTIFF'S COMPLAINT FOR CONDITIONS OF CONFINEMENT.

6) FACTS:

- 7) THE PLAINTIFF IN THE ABOVE MENTION CASE NEVER SAUGHT OUT A COMPLAINT UNTIL
- 8) THE JAIL (M.C.S.O.) LAWYERS, RESPONDING TO MY CRIMINAL DEFENSE LAWYER
- 9) DAVID CUTLER'S MOTION ON RULE 8, A.R.C.P SPEEDY TRIAL RIGHTS AND HEARING
- 10) TO DETERMINE THE CONSTITUTIONALITY OF MCSO'S SOLITARY CONFINEMENT, DATED
- 11) AUGUST 7, 2017

- 12) MARICOPA COUNTY DEPUTY ATTORNEY JOSEPH J. BRANCO RESPONDED, DATED
- 13) AUGUST 25, 2017, BY CITING SEVERAL CASE LAWS, AND ON PAGE 3 AND 4 OF HIS
- 14) MOTION IN (EXHIBIT A) HE STATED:

- 15) "THE SHERIFF IS NOT A PARTY TO [THE DEFENDANTS] CRIMINAL PROCEEDINGS,
- 16) AND WHETHER THE CONDITIONS OF [HIS] CONFINEMENT VIOLATE [HIS] CONSTITUTIONAL
- 17) RIGHTS IS NOT PROPERLY AT ISSUE IN THAT PROCEEDINGS." INSTEAD, WRIGHT
- 18) CAN RAISE THAT ISSUE IN A CIVIL SUIT UNDER 28 U.S.C. § 1983

- 19) JOSEPH J. BRANCO CONCLUSION ON PAGE 4 STATES:
- 20) WRIGHT COMPLAINS ABOUT THE CONDITIONS OF HIS CONFINEMENT. AN ENTIRE
- 21) BODY OF LAW BASED ON SECTION 1983 POTENTIALLY PROVIDES HIM THE RELIEF HE SEEKS.
- 22) A CRIMINAL COURT'S POWERS UNDER STATE LAW DO NOT.

- 23) HE STATES; HIS MOTION IS BY: /s/ JOSEPH J. BRANCO
- 24) ATTORNEY FOR MARICOPA COUNTY
- 25) SHERIFF PAUL PENZONE

1) HERE, IN THESE TWO MOTION FILES IN THE PLAINTIFFS CRIMINAL CASE, THE COURT
 2) CAN WEIGH IN SEVERAL FACTORS:
 3) 1. THE PLAINTIFF SAUGHT THROUGH A 1983 CIVIL COMPLAINT, THAT WAS RECOMMENDED
 4) BY THE SAME CIVIL SERVICES DIVISION, WHO NOW CHALLENGE IT.
 5) 2. THAT SHERIFF PENZONE & CPT VALE HAVE BEEN AWARE OF PLAINTIFFS RIGHTS CONDITIONS
 6) OF CONFINEMENT FOR SEVERAL YEARS
 7) 3. THAT PLAINTIFF'S COMPLAINT WAS VIEWED AT THE HIGHEST LEVEL.
 8) AND THIS IS ONE IN MANY FACTORS WHY SUMMARY JUDGMENT SHOULD NOT BE GRANTED
 9) TO THE DEFENDANTS

10) IN MANY CIRCUMSTANCES THE COURTS HAVE HELD THAT EXHAUSTION IS
 11) SATISFIED WHEN NON-GRIEVANCE COMPLAINTS WERE VIEWED AT THE HIGHEST LEVEL
 12) SEE CAMP V. BRENNAN, 219 F.3D 279, 280 (3D CIR. 200) HOLDING THAT USE OF
 13) A FORCE ALLEGATION REPORTEDLY INVESTIGATED AND REJECTED BY SECRETARY OF
 14) CORRECTION'S OFFICE NEEDED NO FURTHER EXHAUSTION)

15) FRANKLIN V. ONEIDA CORRECTIONAL FACILITY, 2008 WL 2690243, *7 (N.D.N.Y.
 16) JULY 1, 2008) (DENYING SUMMARY JUDGMENT WHERE PRISONER'S LETTER TO THE
 17) COMMISSIONER PROMPTED AN INVESTIGATION THAT MIGHT HAVE MADE A GRIEVANCE
 18) REDUNDANT)

19) ROLAND V. MURPHY 289 F. SUPP. 2D 321, 324 (E.D. N.Y. 2003) (COMPLAINTS
 20) TO THE SHERIFF'S DEPARTMENT INTERNAL AFFAIRS UNIT AND DISTRICT ATTORNEY'S
 21) OFFICE GAVE "AMPLE OPPORTUNITY" TO ADDRESS COMPLAINT INTERNALLY)

22) THERE ARE DIFFERENT TYPES OF COMPLAINTS THAT MEET THE EXHAUSTION
 23) REQUIREMENT. THE SUPREME COURT, IN DISCUSSING CONGRESS' PURPOSE IN
 24) REQUIRING EXHAUSTION, SAID THAT "CONGRESS AFFORDED CORRECTIONS OFFICIALS
 25) TIME AND OPPORTUNITY TO ADDRESS COMPLAINTS INTERNALLY BEFORE ALLOWING THE
 26) INITIATION OF A FEDERAL CASE." PORTER V. NUSSLE, 534 U.S. 516, 525, 122 S.
 27) CT. 983 (2002)

28) PRISON OFFICIAL ACTUALLY REVIEW FOUR COMPLAINT, AND THEY HAVE THE OPPORTUNITY
 29) TO ADDRESS THE COMPLAINT INTERNALLY, AND THERE FOR THE EXHAUSTION REQUIREMENT
 30) SHOULD BE SATISFIED

31) IF THIS IS NOT ENOUGH TO SHOW THE COURT WHY SUMMARY JUDGMENT SHOULD NOT
 32) BE GRANTED TO THE DEFENDANTS THE PLAINTIFF HAS A LIST OF OTHER FACTS
 33) THAT WILL NOW POINT OUT TO THE COURTS

34) IN 2015 PLAINTIFF WAS THREATENED BY STAFF HAD GRIEVANCE DISAPPEAR
 35) AND WROTE A LETTER TO THE CAPTAIN OF THE JAIL. THAT I.L.S OPENED AND
 36) READ BUT DID NOT FORWARD TO THE CAPTAIN. THE THREATS AND INTIMIDATION
 37) WAS SO BAD THAT MY FAMILY CALLED THE SHERIFF'S OFFICE AND A LT. SMITH
 38) CAME TO SEE ME, AND SAID THE D.O (DETENTION OFFICER) IN QUESTION WAS NO LONGER
 39) ABLE TO INTERACT WITH ME. (EXHIBIT B)

40) HEMPHILL V. NEW YORK, 380 F.3D 680, 690 (2D CIR 2004) (NOTING THAT A PRISONER
 41) MAY BE WELL DETERRED FROM FILING AN INTERNAL GRIEVANCE BUT NOT FROM GOING TO
 42) INDIVIDUALS IN A POSITIONS OF GREATER AUTHORITY IN THE PRISON SYSTEM, OR TO
 43) EXTERNAL STRUCTURES OF AUTHORITY SUCH AS STATE OR FEDERAL COURTS)

44) OTHER COURTS HAVE ENDORSED THE HEMPHILL HOLDING AFTER THE DECISION IN WOODFORD. SEE
 45) TURNER V. BURNSIDE, 541 F.3D 1077, 1085 (11TH CIR 2008) KABA V. STEPP, 458 F.3D 678, 684-85
 46) (7TH CIR. 2006)

- 1) HERNANDEZ V. SCHIRRO, 2006 WL 2989030, *4 (D. ARIZ., OCT. 18, 2006);
- 2) JAMES V. DAVIS, 2006 WL 217082, *16-17 (D.S.C. JULY 31, 2006); STANLEY V. RICH,
- 3) 2006 WL 1549114, *2 (S.D. GA., JUNE 1, 2006) (STATING "THREATS OF VIOLENT REPRISAL
- 4) MAY, IN SOME CIRCUMSTANCES, RENDER ADMINISTRATIVE REMEDIES "UNAVAILABLE" OR
- 5) OR OTHERWISE JUSTIFY AN INMATES FAILURE TO PURSUE THEM")

6) PLAINTIFF WILL ATTEMPT TO PROVE TO THE HONORABLE COURT THAT IN 2015
 7) TO 2016 PLAINTIFF WAS HARASSED AND RETALIATED ON AND THREATENED
 8) (ALSO IN EXHIBIT B)

9)
 10) IN OPPOSITION OF DEFENDANTS SUMMARY JUDGEMENT BY PARAGRAPH

11) DEFENDANTS, I INTRODUCTION AND STATEMENT OF FACTS, PAGE (2) OF DEFENDANTS
 12) MOTION:

13) PLAINTIFF WRIGHT WAS BOOKED IN MARICOPA COUNTY JAIL ON NOV 16, 2010
 14) AND NOT NOV 17, 2010 AS DEFENDANT STATE, AND PLAINTIFF WRIGHT WAS CHARGED WITH
 15) CONSPIRACY TO SALE MARIJUANA, AND PLACED IN GENERAL POPULATION, AND HIS BOND WAS
 16) IMPACT 2 MILLION

17) PLAINTIFF WRIGHT WAS PAGED 2ND AND MOVED TO SOLITARY CONFINEMENT
 18) ON NOV 21, 2010 5 DAYS AFTER ARRIVING AT M.C.S.D AND WAS CHARGE WITH FELONY
 19) MURDER WITH 3 COUNTS AND ONE WAS AN OFFICER.

20) DEFENDANTS STATE BECAUSE OF THE NEW CHARGES I WAS PLACED IN CLOSED CUSTODY
 21) HOUSING

22) HERE LIES JUST ONE PROBLEM OF MANY THE COURTS SHOULD CONSIDER: PLAINTIFF
 23) WRIGHT WAS NOT A HURT, HARM OR DANGER TO STAFF OR OTHER INMATES OR DID
 24) HE HAVE ANY DOCUMENTED HISTORY OF SUCH AS THE D.I. 1 POLICY STATES
 25) PLAINTIFF WRIGHT HAS NEVER BEEN TO PRISON OR HAD A FELONY, EVER PRIOR
 26) TO THIS ARREST, FURTHERMORE AS STATED BY: JOSEPH J. BRANCO MARICOPA
 27) COUNTY CIVIL SERVICE DIVISION (EXHIBIT A) ATTORNEY FOR SHERIFF PAUL PENZONE
 28) PAGE (3) OF HIS MOTION SEE ALSO A.R.S. § 31-101, AND ARIZONA'S APPELLATE
 29) COURTS HAVE MADE CLEAR THE SEPERATION OF POWERS BETWEEN THE SUPERIOR COURT
 30) AND THE SHERIFF WITH REGARD TO HOUSING.

31) THEN ON THE SAME PAGE (3) LINE 21 - 22 AND PAGE (4) LINE 1 AND 2

32) THE SHERIFF IS NOT A PARTY TO [THE DEFENDANT'S] (PLAINTIFF WRIGHT) CRIMINAL
 33) PROCEEDING, AND WHETHER THE CONDITIONS OF [HIS] CONFINEMENT VIOLATE [HIS] CONSTITUTIONAL
 34) RIGHTS IS NOT PROPERLY AT ISSUE IN THAT PROCEEDING. I.D. INSTEAD, WRIGHT CAN RAISE
 35) THAT ISSUE IN A CIVIL SUIT UNDER 28 U.S.C. § 1983

36) THE PLAINTIFF HAS READ CASE LAW IN BIRDINE V GRAY, 375 F. SUPP. 2D 874, 879
 37) (D. NEB. 2005 (WHETHER THE ACTION WAS DONE FOR PUNITIVE PURPOSE, WAS RATIONALLY RELATED
 38) TO A LEGITIMATE PURPOSE, AND WAS EXCESSIVE RELATIVE TO THAT PURPOSE) HERE THE PLAINTIFF
 39) WAS PUT IN SOLITARY FOR PUNISHMENT, PLAINTIFF WILL SHOW THAT THE SHERIFF PENZONE
 40) AS WELL AS CPT VALE AND THE DETENTION STAFF KEPT A POLICY HEID OVER FROM THE PRIOR
 41) SHERIFF. ALL HAD REASON TO KNOW THAT THE CONDITIONS OF CONFINEMENT IN SOLITARY CREATED
 42) A HIGH DEGREE OF RISK OF PHYSICAL AND MENTAL HARM AND ACTED IN CONSCIOUS DISREGARD
 43) AND INDIFFERENCE TO THE RISK. THIS WAS INTENDED FOR PUNISHMENT AND WAS NOT
 44) MERELY AN INCIDENT OF SOME OTHER LEGITIMATE PURPOSE AND IT RESULTED INJURY
 45) TO PLAINTIFF. SEE (EXHIBIT C)

THE SHERIFF OFF IS NOT A PARTY TO MY CASE BUT TRACKS MY CASE AND ALSO IS

- 1) AWARE THAT PLAINTIFF WRIGHT IS NOT FACTING THE DEATH PENALTY NOR HAS EVER
- 2) YET THERE ARE PEOPLE FACING CAPITAL PUNISHMENT IN GENERAL POPULATION WRIGHTS
- 3) BOND WAS DROPPED IN 2011 TO 1,000,000 SECURED IN 2011, YET THE SHERIFF'S
- 4) OFFICE KEPT IT YEARS LATER AT 3,000,000 DESPITE THE MINUTE ENTRY SHOWING
- 5) MY BOND WAS DROPPED (MINUTE ENTRY AUG 2011) IN (EXHIBIT C) YOU CAN SEE EVEN
- 6) 2012 THE SHERIFF'S OFFICE STATED HIGH BOND 3,000,000 WHEN IT WAS IN FACT
- 7) REDUCED AND THERE ARE PEOPLE IN GENERAL POPULATIONS WITH HIGH BONDS
- 8) THAT DO NOT HAVE TO GO THROUGH THE CONDITIONS OF CONFINEMENT FOR FACE
- 9) IN SOLITARY.
- 10) THE SHERIFF'S OFFICE DOES NOT KNOW THE VICTIMS OF EVERY CRIME, BUT
- 11) YET HEID THAT I WAS CHARGED WITH RECENT MURDER OF AN OFFICER FROM CHANDLER
- 12) CLEARLY SHOWS THAT THE SEPERATION OF POWER STILL EXIST. PLAINTIFF WRIGHT
- 13) HAD A HUNG JURY ON THE SAME COUNTS DURING TRIAL IN HIS CRIMINAL
- 14) LASE IN 2019. DURING THE VERDICT M.C.S.O SERGEANTS SET BY THE VICTIMS
- 15) TO INFACT MONITOR A CASE THAT THE SHERIFF'S ATTORNEY SAID THEY ARE NOT A
- 16) PARTY TO MY CRIMINAL PROCEEDINGS (SEE F.D.R VERDICT IN WRIGHT'S CRIMINAL
- 17) TRIAL APRIL 2019) PLAINTIFF COULD NOT GET A COPY.

- 18) IN CLOSED CUSTODY, WRIGHT WAS HOUSED ALONE, WRIGHT COULD GET RELIGIOUS
- 19) VISIT AND LEGAL VISIT AS WELL AS MENTAL HEALTH VISITS CELL SIDE BUT FAMILY
- 20) WOULD HAVE TO VISIT VIA VIDEO MONITOR NO FAMILY CONTACT IN 9 FPS
- 21) DEFENDANTS STATED YOU COULD RECEIVE AND RIGHT LETTERS, WHEN IN FACT
- 22) YOU CAN ONLY RECEIVE POST CARDS EVEN IN THIS PAPERLESS TIME WE LIVE IN
- 23) AND POST CARDS ARE THE HARDEST THING TO FIND.
- 24) DEFENDANTS STATED YOU HAVE ACCESS TO LIBRARY, WHEN IN FACT LIBRARY
- 25) SENDS TWO RANDOM BOOKS AND 2 TO 3 MAGAZINES A MONTH OF DONATED
- 26) MATERIAL SOME DATED IN THE 1940'S
- 27) PLAINTIFF WRIGHT WAS ABLE TO TALK TO SOME INMATES IN THE VENTS BY
- 28) SCREAMING TO HAVE SOME FORM OF COMMUNICATION AND WOULD LEAVE STOLEN
- 29) ITEMS FOR INMATES WHO HAD NONE.

30) A. HOUSING REVIEWS, REQUESTS AND TRANSITIONS

- 31) WRIGHT HAS ALWAYS ASKED FOR A HOUSING CHANGE TO BE ALLOWED TO GO TO G-P
- 32) WHERE PLAINTIFF WRIGHT SHOULD OF NEVER BEEN PUNISHED AND MOVED WITH
- 33) OUT CAUSING NOT 1 SAFETY ISSUE. IN 2016 CO-DEFENDANT DOARNEC -
- 34) JACKSON WAS IN THE 1HR FOL AND WAS NOT ABLE TO TRANSITION TO G-P
- 35) HE WOULD COMPLAIN AS EVERYONE ELSE WOULD ABOUT COMING OUT AT ALL HOURS
- 36) OF THE NIGHT AND HAVING TO LOCK DOWN EVERYTIME A D.O DOES A WALK
- 37) IN WHICH WOULD SHORTEN HIS TIME. (D.O. WOULD NOT LET ME WRITE MR
- 38) JACKSON SO I COULD GET AN AFFIDAVIT FROM HIM AND DID NOT WANT TO MISS
- 39) DEAD LINE) ALSO IN 2016 PLAINTIFF WRIGHT HAD A TESTIFYING CO-DEFENDANT
- 40) ELDRIODE GITTENS HOUSE IN 1HR FOL AND DID NOT WANT TO BE PLACED BY HIM
- 41) IN WHICH THE JAIL WOULD OF DONE (PLEASE NOTE THE JAIL IN 2019 DID AWAY
- 42) WITH THE 1HR FOL AND ALLOWED PLAINTIFF WRIGHT TO PLACED DIRECTLY IN G-P
- 43) IN WHICH IS WHAT HE HAS BEEN ASKING FOR) WHEN PLAINTIFF WRIGHT WAS
- 44) TOLD HE COULD TRANSITION TO G-P, HE RELEASED SOME PAPER WORK AND HAS
- 45) BEEN DOWN STAIRS HERE IN G-P SINCE MAY 2019 TICKET FREE AND WITH
- 46) MENTAL ISSUE TO DEAL WITH
- 47) THE TICKETS PLAINTIFF WRIGHT RECEIVED WERE MOSTLY IN A TIME WHEN
- 48) THEN PLAINTIFF WAS BEING RETALIATED ON (EXHIBIT B) AND REGARDLESS
- 49) WOULD NOT KEPT AN INMATE IN CLOSED CUSTODY.

- 1) INFANT, IF WRIGHT WAS IN GENERAL POPULATION NONE OF THE TICKETS
- 2) RECTIVE WOULD OF SENT HIM TO CLOSED CUSTODY IN THE 1ST PLACE.
- 3) PLAINTIFF WRIGHT HAS SEEN INMATES WITH STAFF ASSAULTS ALLOWED TO
- 4) GO BACK TO G-P.
- 5) DEFENDANTS HAS PLACED A D.A.R TICKET FROM 2018, WELL AFTER
- 6) MY COMPLAINT WAS PUT IN BUT FAILED TO MENTION TO COURTS THAT THE
- 7) POWDERY SUBSTANCE WAS INFECT MEDICATION THAT WILLIAM LONG, DEVONTE
- 8) SNEAD AND MYSELF ALL RECEIVE THE SAME TICKET EVEN AFTER MR. SNEAD
- 9) TOLD THE D.O'S THE MEDICATION WAS HTS.

10) B. EYESIGHT AND SLEEP

- 11) ON MAY 14, 2015, WRIGHT'S VISION WAS FAZING IS WHY HE WENT TO THE
- 12) DOCTOR PLAINTIFF WRIGHT WAS UNAWARE THAT HIS VISION WAS DAMAGE
- 13) FROM LACK OF VITAMIN D AND FOR THE ARTIFICIAL LIGHT IN HIS ROOM
- 14) WRIGHT PUT IN A GRIEVANCE ABOUT THE LIGHTS ON JUNE 4, 2019 (EXHIBIT D)
- 15) PLAINTIFF WRIGHT PUT THIS GRIEVANCE IN ON 1ST SHIFT BECAUSE 2ND SHIFT
- 16) HAD BEEN RETALIATING ON ME FOR GRIEVANCES THROWING AWAY MY GRIEVANCE
- 17) THAT I HAD TO REPORT THIS THROUGH FAMILY TO THE SHERIFFS OFFICE
- 18) ALTHOUGH I PUT THE GRIEVANCE ON 1ST SHIFT 2ND SHIFT CAME AND SAID
- 19) I COULD NOT GRIEVE LIGHTS WHICH I FELT WAS AFFECTING MY EYE'S AND SLEEP
- 20) (SEE EXHIBIT D) MY VITAMIN D LEVELS WAS SO LOW AT ONE TIME THAT
- 21) PLAINTIFF REQUEST AN EXPERT FROM THE COURTS TO GET A MEDICAL EXPLANATION
- 22) FOR THE REDUCED EYE SIGHT.

- 23) ALSO IN (EXHIBIT D) PLAINTIFF WRIGHT WILL ENCLOSE A PICTURE THAT
- 24) SHOWS SOME TIMES COMPASSIONATE D.O'S DO TURN OFF THE LIGHTS AND DO
- 25) USE FLASH LIGHTS IN THIS PHOTO AND THE REC PEN LIGHT IS SHOWN ON
- 26) WHEN INFECT ALL THE CELL LIGHTS WOULD OF LOOK JUST LIKE THE REC PEN
- 27) LIGHT. PLAINTIFF WRIGHT ASK ON NUMEROUS OCCASION FOR A TRUE PICTURE
- 28) TO SHOW HOW IT REALLY LOOKS WHEN ALL THE LIGHTS ARE ON AT NIGHT SO THE
- 29) COURTS COULD SEE BUT INSTEAD WAS JUST GIVEN 1 PICTURE WHEN ALL THE
- 30) DAY ROOM LIGHTS IN THE CELL WERE TURN OFF WHICH IS NOT THE NORM.

- 31) ALSO INCLUDED IN (EXHIBIT D) IS MENTAL HEALTH SHEETS FROM
- 32) THE EARLY YEARS TO THE LATER OF POOR OR DISTURBED SLEEP,
- 33) AND 4 PICTURES SHOWING THE COURTS THE DAY ROOM AND ROOM OF
- 34) PLAINTIFF WRIGHT'S DAY ROOM AND ROOM.

- 35) PLAINTIFF WOULD ALSO LIKE THE COURTS TO LOOK AT MENTAL HEALTH
- 36) SHEETS FROM WHAT I DATED 7/12/2015 BATE STAMP CHS03171
- 37) 9/11/2015 BATE STAMP CHS03145 THAT ARE ALSO IN EXHIBIT D
- 38) THE DEFENDANTS CAN CONFIRM DATE FROM BATE STAMPS (TO MANY OTHER PAPERS)
- 39) ON THESE TWO SHEETS THE COURTS CAN CLEARLY READ THE PROBLEM THE
- 40) PLAINTIFF'S BEEN HAVING WITH 2ND SHIFT AND A PROBLEM WITH THEM
- 41) THROWING AWAY MY GRIEVANCE'S. PLAINTIFF HAS MANY OTHER'S HE WOULD
- 42) LIKE TO BRING TO TRIAL SO THE JURY CAN READ MY STATE OF MIND THROUGH OUT
- 43) THE TIME IN SOLITARY.

- 44) C. M LSO'S GRIEVANCE PROCESS AND WRIGHTS TO EXHAUST THE GRIEVANCE
- 45) PROCESS AS TO LIGHTING, SUNLIGHT AND LACK OF OUTDOOR RECREATION, LACK
- 46) OF OUTDOOR RECREATION, LACK OF FRESH AIR OR SUNLIGHT IN RECREATION AREAS,
- 47) OR LACK OF EXPOSURE TO SUNLIGHT.

1) PLAINTIFF WRIGHT ADDRESS THE GRIEVANCE ISSUE TO THIS PART OF
 2) DEFENDANT'S MOTION AT THE BEGINNING OF HIS RESPONSE TO THE DEFENDANT'S
 3) MOTION AND HAS ENCLOSED IN (EXHIBIT D) WHERE A GRIEVANCE WAS
 4) EXHAUSTED IF IT IS DEEMED NON-GRIEVABLE. PLAINTIFF WRIGHT DID
 5) IN FACT RIGHT A GRIEVANCE ABOUT THE LIGHT IN HIS CELL. IF YOU LOOK
 6) IN EXHIBIT B GRIEVANCE AMENDMENT D.O. B 2675 WHO CONTINUED
 7) TO HARRASS ME UNTIL I GOT MY FAMILY TO CALL THE SHERIFF CALLED THE REC
 8) THE HOUSING UNIT'S GENEROUS RECREATION AND SHOWER PROGRAM, I DID
 9) IN FACT GRIEVE THE REC PIN, BECAUSE SOME LEFT HUMAN WASTE IN THERE
 10) AND THEY FORCED ME TO GO TO THAT REC PIN, IT OF COURSE DISAPPEARED
 11) BUT 3RD SHIFT CALLED MAINTENANCE THE NEXT DAY TO CLEAN IT OUT AFTER
 12) PLAINTIFF TALKING TO THE D.O.'S ON 1ST SHIFT ABOUT WHAT TOOK PLACE THE
 13) DAY PRIOR, PLAINTIFF COULD GET WITNESSES IF THE COURTS COULD GIVE HIM
 14) PERMISSION

15) THE GRIEVANCE'S ABOUT LIGHT SHOULD OF MADE IT TO CPT VAIL SINCE
 16) IT WAS HIS D.O. THAT SAID IT WAS A SECURITY ISSUE (EXHIBIT D) OR
 17) MAYBE NOT SINCE THEY WENT COMPLETELY UNCHECKED, I COMPLAINED ABOUT
 18) 2ND SHIFT IN 2015 THROWING AWAY GRIEVANCE BUT DESPITE ALL THE ABOVE
 19) I PERSONALLY HAVE CPT VAIL'S DESIGNEE RESPONDING ON CPT VAIL'S BEHALF
 20) AND CPT VAIL HIMSELF RESPONDED DIRECTLY TO PLAINTIFF WRIGHT ABOUT
 21) MOVING OUT OF CLOSE CUSTODY (EXHIBIT E) ON TANK ORDERS AND GRIEVANCE'S
 22) SO PLAINTIFF'S IS UNSURE WHAT DEFENDANTS MEAN WHEN STATED THAT NONE
 23) OF THE GRIEVANCES THAT VAIL RESPONDED TO REQUESTED THAT WRIGHT BE MOVED
 24) OUT OF CLOSED CUSTODY. WRIGHT HAS WROTE CPT VAIL ON NUMEROUS OCCASIONS

25) II SUMMARY JUDGMENT STANDARD

26) PLAINTIFF OUTLINED IN THE BEGINNING OF THIS MOTION MANY REASONS
 27) WHY SUMMARY JUDGMENT SHOULD BE DENIED WITH CASE LAW AND PLAINTIFF'S
 28) HAS EVIDENCE THAT PROVES SUMMARY JUDGMENT SHOULD BE DENIED THROUGH
 29) EXHIBITS AND FACTS

30) III PLAINTIFF DID NOT GRIEVE CONTINUOUS LIGHTING IN HIS CELL, THE
 31) LACK OF FRESH AIR OR SUNLIGHT IN OUTDOOR RECREATION AREAS, OR LACK OF
 32) EXPOSURE TO SUNLIGHT
 33) (EXHIBIT D) POINTS TO ONE OF MANY GRIEVANCE'S NOT EXCEPTED ALSO

34) IN THIS SAME EXHIBIT PLAINTIFF WRIGHT IS TALKING TO MENTAL HEALTH
 35) ABOUT 2ND SHIFT THROWING AWAY GRIEVANCE'S THAT WERE RELATED TO
 36) REC, SHOWER, DIZZY SPELLS BROUGHT ON FROM LACK OF VITAMIN D AND/OR
 37) SUN LIGHT.
 38)

39) IV. CONDITIONS OF CONFINEMENT.

40) THE REQUIRED SHOWING OF DELIBERATE INDIFFERENCE WAS MET, WHEN
 41) PLAINTIFF DID NOTHING TO BE CONFINED TO THE CONDITIONS OF SOLITARY FOR NO
 42) OTHER REASON BUT HIS CHARGE'S THAT THE JAIL FOUND HIM GUILTY OF, WHILE A JURY
 43) OF MY PEERS GAVE ME A HUNG JURY, DESPITE THAT THE ADMINISTRATION KNEW FROM
 44) THE HIGHEST LEVEL BEFORE MY CIVIL SUIT (EXHIBIT A) THAT PLAINTIFF WRIGHT WAS
 45) NOT STABLE BEING LOCKDOWN SO LONG AND WANTING TO GO DIRECTLY BACK DOWN
 46) TO G-P THE WAY I WAS BROUGHT UPSTAIRS TO SOLITARY, WHICH WAS FINALLY MET
 47) IN MAY 2019. WHAT SHOULD OF TOOK PLACE, IN 2010, 2011, 2012, 2013, 2014, 2015, 2016
 48) 2017, 2018 AND NOT PUNISHED SOLEY FOR MY CHARGES THAT I AM INNOCENT UNTIL
 49) PROVEN GUILTY

1) PLAINTIFF BELIEVES NOW AS HE DID THEN IN 2010 THAT PLAINTIFF WAS
 2) PUNISHED FOR A CRIME HE DID NOT COMMIT, INFACT. PLAINTIFF WAS CHARGED
 3) WITH FELONY MURDER, IN 2012 IN (EXHIBIT C) GRIEVANCE #12-02591 IT
 4) ALL BUT SPELLS IT OUT THEY EVEN INDICATE MY BOND WAS 31000,000 WHEN INFACT
 5) IT WAS 1,000,000 SECURED LOWER THEN WHEN I 1ST ARRIVED IN G-P SO WHEN
 6) DEFENDANTS FOLLOW THE SAME EXAMPLE AS THE OLD SHERIFF THEY TOO PUNISHED
 7) THE PLAINTIFF. NOW THAT PLAINTIFF IS IN G-P PLAINTIFF HAS HAD NOT ONE PROBLEM
 8) NOR SECURITY ISSUE THAT WARRANT HIM FROM BEING PUT IN SOLITARY IN THE
 9) 1ST PLACE. THIS IS A VIOLATION OF PLAINTIFF'S 14TH AMENDMENT AND A DIRECT
 10) PUNISHMENT OF THIS PRETRIAL DETAINEE. EXACTLY WHAT CASE LAW PROHIBITS.

11) A. 23 HOUR LOCKDOWN

12) DEFENDANTS CLAIM HERE THAT PLAINTIFF WRIGHT WAS HOUSED IN CLOSED CUSTODY
 13) FOR SECURITY REASONS BUT YET, FAIL TO STATE WHAT SECURITY ISSUE. ESPECIALLY
 14) SINCE PLAINTIFF WRIGHT STARTED IN G-P AND ONLY WHEN PAGE 2'D FOR OTHER CHARGE;
 15) WAS HE MOVED. THE DEFENDANTS STATE WHEN PLAINTIFF WRIGHT WAS BOOKED, THEY
 16) LOOK AT HIS BOND, HAVING 4 OR MORE FELONY ARRESTS AND A SERIOUS OFFENSE HISTORY.
 17) WRIGHT WAS BOOKED IN 4TH AVE WITH 1 CHARGE, NEVER HAD A FELONY PRIOR
 18) AND NEVER HAD A HISTORY OF ANY SERIOUS OFFENSE, THE CHARGE WAS CONSPIRACY
 19) TO SALE MARIJUANA, AND FOR THIS ONE CHARGE MY BOND WAS SET AT 2,000,000
 20) BECAUSE THE CRIMINAL CASE WAS POLITICAL, INVOLVING A POLICE OFFICER, PLAINTIFF
 21) WRIGHT HAD 8 CO-DEFENDANTS AND FOR THE DEFENDANTS TO OUTRIGHT GIVE
 22) THE COURTS FALSE INFORMATION IS UNETHICAL IN THE OUT LINED ABOVE. THE ONLY
 23) TRUTH WAS MY BOND WAS EXTREMELY HIGH FOR THE CHARGE OF CONSPIRACY TO SALE
 24) MARIJUANA.

25) THE DEFENDANTS CLAIM OF SAFETY AND SECURITY IS AN EXCUSE FOR A EXCUSE
 26) TO ENABLE THEM TO GET AWAY WITH PUNISHMENT FOR CHARGE'S IN CRIMINAL CASE'S
 27) THAT THE SHERIFF'S OFFICE IS NOT A PARTY TO.

28) THE DEFENDANTS STATE THAT WRIGHT SAID HE HAD NO DISCIPLINARY HISTORY
 29) WHEN INFACT YEARS OF SOLITARY LATER WRIGHT DID RECEIVE TICKETS BUT
 30) KNOWN WOULD OF KEPT HIM FROM G-P AND MOST WAS FOR RETALIATION
 31) THAT WRIGHT NOT BEING A PROPHET NOR WITH ANY INTENTIONS OF FILING A 1983
 32) CIVIL COMPLAINT, WENT TO THE ADMINISTRATION ON NUMEROUS OCCASIONS. SEE
 33) (EXHIBIT B) MOST ARE FOR BEING IN MY DAY ROOM, WHICH IS AN EXTENSION OF
 34) MY ROOM FOR MEDICAL REASONS DIZZINESS FOR LACK OF VITAMIN D. THE SO CALLED
 35) MANUFACTURE / POSSESSION OF SUSPECTED NARCOTICS / PROMOTION OF PRISON CONTRABAND,
 36) WAS ACTUALLY MEDS FROM THE NURSE, IN WHICH 3 PEOPLE GOT TICKETS ON
 37) THIS DAY IN 2018 ONE OF WHICH SAID THE MEDICATION WAS HIS.

38) THIS IS ONE OF MANY TRICKERY THE DEFENDANTS ATTORNEY A MARICOPA
 39) COUNTY ATTORNEY AT THAT. IF THESE WERE INFACT REAL NARCOTICS PLAINTIFF WRIGHT
 40) WOULD OF BEEN CHARGED, BECAUSE WHAT WAS FAIL TO BE MENTION TO THE COURT, THEY
 41) WERE TESTED. AND PLAINTIFF HAS NOT RECEIVED ANY TICKETS SINCE THEN. PLEASE
 42) NOTE: THERE ARE PEOPLE WHO BEEN HERE 2 YRS IN G-P WHO HAVE TWICE AS MANY
 43) TICKETS SOME FOR VIOLENCE AND JUST SENT TO THE HOLE ON THE 2ND FLR AND BROUGHT
 44) RIGHT BACK TO G-P.

45) DEFENDANTS STATE, ALTHOUGH WRIGHT ALLEGES THAT HAS MEDICAL CONDITIONS
 46) AS A RESULT OF BEING CONFINED TO HIS CELL FOR 23 HOURS PER DAY, HE HAS DISCLOSED
 47) NO MEDICAL CONDITION

(7) PLEASE SEE (EXHIBIT F)

- 1) IN (EXHIBIT F) PLAINTIFF WRIGHT HAS EVIDENCE IN THE FORM OF
- 2) GRIEVANCE'S AND H.N.R (HEALTH NEEDS REQUEST) THAT CAN DIRECTLY LINK MEDICAL
- 3) CONDITIONS, FROM BACK PROBLEMS FROM SLEEPING ON A CONCRETE SLAB WITH A 2 INCH
- 4) MATTRESS TO DIZZY SPELLS AND BLURRED VISION IN NOT JUST MY LEFT EYE BUT MY RIGHT
- 5) EYE'S AS WELL, WITH TWO DIFFERENT VISION IN EACH EYE BROUGHT ON BY LACK OF VITAMIN
- 6) D AND ARTIFICIAL LIGHTS. PLAINTIFF WRIGHT HAS NUMEROUS PROBLEM RELATED TO MEDICAL
- 7) CONDITIONS HE CAN BRING UP IN TRIAL ALONG WITH BE CHRONIC CARE WITH MENTAL HEALTH
- 8) FROM THE LONG DRAWN OUT AFFECTS OF SOLITARY CONFINEMENT. PLAINTIFF WRIGHT HAS
- 9) NEVER GOT A TICKET FOR INSTITUTIONAL BEHAVIOR BUT IN FACT WOULD LIKE THE COURT TO
- 10) KNOW, THAT SOLITARY CONFINEMENT WAS DRIVING ME CRAZY, THIS IS ONE REASON PLAINTIFF
- 11) WRIGHT'S CRIMINAL LAWYER (DAVID CUTLER) RECOMMENDED I NOT TAKE THE STAND
- 12) DURING CRIMINAL TRIAL, THE SAME CHARGE'S THAT WRIGHT RECEIVED A HUNG JURY
- 13) FOR THE SAME CHARGE'S THE SHERIFF OFFICE'S VIOLATED MY CONSTITUTIONAL RIGHTS
- 14) AND PUNISHED ME FOR.
- 15) 1. WRIGHT'S CLAIMS REGARDING HIS HOUSING ASSIGNMENTS PRIOR TO
- 16) NOVEMBER 9, 2015, ARE BARRED BY THE TWO YEAR STATUE OF LIMITATIONS.
- 17) UNDER FEDERAL LAW, A CLAIM ACCURES "WHEN THE PLAINTIFF KNOWS OR HAS REASON
- 18) TO KNOW OF THE INJURY WHICH IS THE BASIS OF THE ACTION. KIMES V STONE,
- 19) 84 F.3D 1121, 1128 (9TH CIR. 1996) PLAINTIFF WRIGHT DID NOT KNOW THAT A 1983
- 20) CIVIL COMPLAINT EXISTED UNTIL THE SHERIFFS LAWYER POINTED IT OUT ON HIS
- 21) MOTION IN EXHIBIT A) AND THE PUNISHMENT FOR IN WHICH THE JAIL INFLECTED
- 22) ON PLAINTIFF WRIGHT WAS ON GOING NON STOP
- 23) PLAINTIFF WRIGHT WAS IN JAIL AND NOT CONVICTED OF ANYTHING IN WHICH
- 24) NOW PLAINTIFF WRIGHTS DUE PROCESS WAS VIOLATED. COURTS HAVE GENERALLY HELD
- 25) THAT THE RULE OF SANDIN V. CONNER DOES NOT APPLY TO PRETRIAL DETAINEES IN
- 26) IQBAL V. HASTY, 490 F.3D 143, 162-63 (2ND CIR. 2007); SUPRENT V RIVAS, 424
- 27) F.3D 5, 17 (1ST CIR. 2005); PEOPLES V. CCA DETENTION CENTERS, 422 F.3D 1090, 1106 N.2 (10TH
- 28) CIR. 2005) (SANDIN LEAVES BELL V WOLFISH WHICH GOVERNS DETAINEES' RIGHTS, UNTOUCHED),
- 29) VACATED IN PART ON OTHER GROUNDS, 449 F.3D 1097 (10TH CIR 2006); VALDEZ V. ROSENBAUM,
- 30) 302 F.3D 1039, 1044 N.3 (9TH CIR 2002); BENJAMIN V. FRASER, 264 F.3D 175, 188-89 (2D
- 31) CIR 2001); FUENTES V. WAGNER, 206 F.3D 335, 342 N.9 (3RD CIR 2000); RAPIER V HARRIS, 172
- 32) F.3D 999, 1004-05 (7TH CIR. 1999); MITCHELL V. DUPNIK, 75 F.3D 517, 523-24 (9TH CIR. 1995)
- 33) (HOLDING THAT SINCE SANDIN IS BASED ON "THE EXPECTED PARAMETERS OF THE SENTENCE IMPOSED
- 34) BY A COURT OF LAW," DETAINEES ARE ENTITLED TO A DUE PROCESS HEARING BEFORE BEING RESTRAINED
- 35) FOR REASONS OTHER THAN TO ASSURE THEIR APPEARANCE AT TRIAL). CONTRA, CEPHAS V. TRUITT, 940 F
- 36) SUPP. 674, 680 (D.DEL. 1996)
- 37) SOME COURTS EVEN HELD THAT DETAINEES ARE ENTITLED TO A DUE PROCESS HEARING IF
- 38) THEY ARE THREATENED WITH PUNISHMENT IQBAL V HASTY, 490 F.3D 143, 165 (2ND CIR 2007)
- 39) HOLDING THAT DETAINEE WAS ENTITLED TO PROCEDURAL PROTECTIONS BASED DIRECTLY UPON DUE
- 40) PROCESS CLAUSE WHERE HE WAS SUBJECTED TO THE CONDITIONS SO HARSH AS TO COMPRISE PUNISHMENT,
- 41) AS WELL AS UNDER FEDERAL REGULATIONS THAT CREATED A LIBERTY INTEREST, REGARDLESS OF DEFENDANTS
- 42) PUNITIVE INTENT ASHCROFT V. IQBAL U.S. 129 S. CT. 1937 (2009); SUPRENT V. RIVAS, 424 F.3D
- 43) 5, 17 (1ST CIR 2005) (HOLDING DETAINEES HAVE A LIBERTY INTREST IN AVOIDING PUNISHMENT) HOLLY V
- 44) WOLFOLK, 415 F.3D 678, 679-80 (7TH CIR 2005). NOTING HOLDINGS THAT "ANY NONTRIVIAL PUNISHMENT
- 45) OF A PERSON NOT YET CONVICTED [IS] A SUFFICIENT DEPRIVATION OF LIBERTY TO ENTITLE HIM TO DUE
- 46) PROCESS OF LAW); RAPIER V. HARRIS, 172 F.3D AT 1005 (APPLYING BELL V. WOLFISH PUNISHMENT
- 47) ANALYSIS TO DUE PROCESS CLAIM); MITCHELL V. DUPNIK, 75 F.3D 517, 523-24 (9TH CIR. 1995); ZARNES

- 1) V. RHODES, 64 F.3D 285, 292 (7TH CIR. 1995). THE FIRST CIRCUIT HAS HELD THAT
- 2) DETAINÉES ARE DENIED DUE PROCESS WHEN THEY ARE PUNISHED AS A RESULT OF FALSE CHARGES
- 3) MADE BY STAFF MEMBERS WITH THE INTENT TO CAUSE THEM TO BE PUNISHED. SUPRENT V.
- 4) RIVAS, 424 F.3D AT 13-14
- 5) NO MATTER WHERE THE DEFENDANTS TRY TO SPIN EVERY TURN TO WHAT, WHERE OR
- 6) HOW PLAINTIFF WRIGHT WAS PUT IN SOLITARY FOR SECURITY REASON, WITHOUT HAVING ANY
- 7) AND NOW WITH THE SAME CHARGES, YET, AM NOW IN G-P, BROUGHT DIRECTLY FROM SOLITARY
- 8) PLAINTIFF WRIGHT WAS PUNISHED FOR HIS CHARGES SOME THEN FEDERAL LAW PROHIBITS

9) B. SUNLIGHT

- 10) STAFFING LIMITATIONS HAS NOTHING TO DO WITH GETTING MORE REC SINCE REC AND
- 11) SHOWERS ARE FINISHED WITHIN 3 HRS ON ANY GIVEN SHIFT FURTHERMORE TO GO TO REC
- 12) YOU ARE JUST PUT INSIDE A ROOM WITH A CAMERA NO DID EVER SITS AND WAITS
- 13) ON YOU. IN (EXHIBIT G) THE COURT CAN TELL THAT UNLESS YOU CATCH THE SUN AT THE
- 14) EARLIEST RISING, YOU WOULD HAVE TO STAND BY THE WALL TO CATCH ANY SUN RAYS AT AN
- 15) HOUR THAT WE ARE NOT PERMITTED TO REC, REGARDLESS IT SO DARK IN THE REC PIN
- 16) THE LIGHTS ARE KEPT ON 24/7. THE REC PIN IS COVERED AND IT ONLY HAS A SLIT
- 17) IN THE CORNER THE COVERING IS GRAY. THE COVERING AND THE SLIT ARE SO HIGH YOU
- 18) NEVER GET DIRECT SUNLIGHT. AS FAR AS FRESH AIR THE SLIT ALLOWS OUTSIDE AIR IN
- 19) ALTHOUGH THE REC PIN IS HARDLY EVER CLEANED UNLESS A PRETRIAL DETAINÉE DOES IT SO
- 20) THE DRAIN ALWAYS SMELLS LIKE URINE OR HUMAN WASTE BECAUSE MENTAL HEALTH DETAINÉES
- 21) AND AT TIME NOT MENTAL HEALTH DETAINÉES USE THE REC AS A REST ROOM

22) C. LIGHTING

- 23) DEFENDANTS CLAIM THAT CONSTANT ILLUMINATION IS NOT PER SE UNCONSTITUTIONAL
- 24) WHEN IN FACT SOME COURTS HAVE HELD THAT CONSTANT LIGHTING IS UNCONSTITUTIONAL; KEENAN
- 25) V. HALL, 83 F.3D AT 1090 (MOREOVER, THERE IS NO LEGITIMATE PENOLOGICAL JUSTIFICATION FOR
- 26) REQUIRING [INMATES] TO SUFFER PHYSICAL AND PSYCHOLOGICAL HARM BY LIVING IN CONSTANT ILLUMINATION.
- 27) THIS PRACTICE IS UNCONSTITUTIONAL." 135 F.3D 1318 (9TH CIR. 1998); KING V. FRANK, 328 F. SUPP.
- 28) 2D 940, 946-47 (W.D. WIS. 2004) (CONSTANT ILLUMINATION MAY VIOLATE THE EIGHTH AMENDMENT
- 29) IF IT CAUSES SLEEP DEPRIVATION OR LEADS TO OTHER SERIOUS PHYSICAL OR MENTAL HEALTH PROBLEMS)
- 30) LEMAIRE V. MAASS, 745 F. SUPP. 623, 636 (D. OR. 1990) 12 F.2D 1444 (9TH CIR. 1993) (HOLDING
- 31) THAT KEEPING CELL LIGHTS ON 24 HOURS A DAY IN SEGREGATION CELLS IS UNCONSTITUTIONAL)
- 32) IN SHEPHERD V. AULT, THE COURT NOTED THAT "THE EFFECTIVENESS OF SLEEP DEPRIVATION
- 33) AS A TOOL OF TORTURE HAS LONG BEEN RECOGNIZED." 982 F. SUPP. AT 648 (CITING REIK V. PATE, 367
- 34) U.S. 433, 81 S. CT 1541 (1961) (RECOGNIZING DEPRIVATION OF FOOD AND SLEEP AS UNCONSTITUTIONAL
- 35) PUNISHMENT) AND ASHURAFY V. TENNESSEE, 322 U.S. 43, 150 N.W. 6, 64 S. CT 921 (1944) ("IT HAS BEEN
- 36) KNOWN SINCE 1500 AT LEAST THAT DEPRIVATION OF SLEEP IS THE MOST EFFECTIVE TORTURE AND
- 37) TO PRODUCE ANY CONFESSION DESIRED;" QUOTING REPORT OF COMMITTEE ON LAWLESS ENFORCEMENT OF
- 38) LAW, SECTION OF CRIMINAL LAW AND CRIMINOLOGY OF THE AMERICAN BAR ASSOCIATION, 1 AMERICAN
- 39) JOURNAL OF POLICE SCIENCE 575, 579-80 (1930)).
- 40) IN (EXHIBIT D) SECTION 1 CLEARLY SHOWS THAT PLAINTIFF WRIGHT TRIED TO GRIEVE
- 41) THE LIGHTS ON 1ST SHIFT AND 2ND SHIFT (WHO HE HAD NUMEROUS PROBLEMS THROUGHOUT THIS SAME
- 42) PERIOD (EXHIBIT C) PLAINTIFF COMPLAINED TO THE HIGHEST LEVELS.) SO, DEFENDANTS MAKE STATEMENTS
- 43) THAT IF THE PLAINTIFF CAN PROVE ARE FALSE, ANOTHER FALSE STATEMENT IS LIGHTS ARE LEFT ON
- 44) FOR SECURITY, WHEN IN (EXHIBIT D) SECTION 3 THE COURT AND ANY OTHER DEFENDANT CAN SEE THE
- 45) LIGHTS ARE OFF EVERYWHERE EXCEPT THE REC PIN ON A NIGHT LIKE THIS ONE D.O.'S WOULD
- 46) USE FLASH LIGHTS BUT MOST D.O. DO NOT EVEN CHECK IN THE ROOMS THEY SPEED PAST THE ROOMS
- 47) IN THE FASTEST WALK POSSIBLE TO GET BACK TO A RAVIDER OR WHATEVER THEY WERE DOING
- 48) BEFORE THE WALK (PLEASE SEE ANY NIGHT VIDEO PRIOR TO THIS MOTION, NO DOUBT THEY WILL BE NOW TOLD
- 49) TO ACTUALLY LOOK IN THE ROOMS NOT JUST FOR COUNT. SOME OFFICERS DO SHINE FLASH LIGHTS IN

- 1) THE ROOM WHEN THE LIGHTS ARE OFF JUST LIKE THE NIGHT IN QUESTIONED AND IF
- 2) PLAINTIFF COULD REACH MOST OF HIS LISTED WITNESSES, (SOME IN D.O.C.) WITHOUT BEING
- 3) RAN ROADS, OR GET STRAIGHT ANSWER, (IN WHICH WILL HELP PLAINTIFF IN TRIAL)
- 4) FROM DEFENDANTS THE COURTS CAN SEE HOW DECEPTIVE THE DEFENDANTS ARE BEING
- 5) OR SO FAR OUT OF REACH BECAUSE MOST OF THE DEFENDANTS WITNESSES DO NOT WORK
- 6) ON 3RD SHIFT WHEN THE LIGHT ARE ON MOST OF THE TIME OR WHEN THEY GET
- 7) OUT OFF LIKE IN (EXHIBIT D) SECTION 3

- 8) IN SUM, THE DEFENDANTS STATE THERE IS NO EVIDENCE THAT POLICY OF PLACING
- 9) WRIGHT IN 23-HOUR LOCKDOWN CAUSED HIM TO SUFFER ANY DISABILITY OR HARM BEYOND
- 10) WHAT IS INCIDENT TO AN INMATE IN CUSTODY AWAITING TRIAL. NOR IS THERE EVIDENCE
- 11) THAT THE CONDITIONS OF WRIGHTS CONFINEMENT WERE IMPOSED TO PUNISH OR THAT THE
- 12) CONDITIONS IN CLOSED CUSTODY DEPRIVED WRIGHT OF LIFE NECESSITIES.

- 13) 1. FOR THE DISABILITIES ONE WOULD JUST HAVE TO READ COMMENTS TO ANY
- 14) MENTAL HEALTH PROVIDER OR FROM HIS EARLIEST GRIEVANCE IN 2012 ABOUT BEING LOCK IN
- 15) SOLITARY.

- 16) 2. PLAINTIFF WRIGHT WAS ONLY PLACED IN SOLITARY CONFINEMENT AS A
- 17) PUNISHMENT FOR HIS CHARGES, WHICH PLAINTIFF HAS CLEARLY SHOWN AND ADMINISTRATION
- 18) HAS ADMITTED

- 19) 3. DEFENDANTS DID NOT DEPRIVE WRIGHT OF LIFE'S NECESSITIES
- 20) PLAINTIFF WRIGHT IS NOW IN G-P AND CAN COMMUNICATE FACE TO FACE WITH OTHER
- 21) PRE TRIAL DETAININGS, CAN SHAKE ANOTHER HUMAN BEINGS HAND, CAN LAUGH AT WHATS
- 22) ON T.V (NEVER SEEN T.V FOR 9 YEARS) AND CAN HAVE A CLASS SETTING, WHETHER
- 23) IT'S RELIGIOUS OR COGNITIVE (NOT OFFERED UP STAIRS) WITH OTHERS AT THE SAME TIME
- 24) THESE ARE JUST A FEW THINGS THE PLAINTIFF WILL SHOW THE JURY DURING TRIAL THAT SHOULD
- 25) PAUL PENTONE AND CPT VAIL COULD OF ALLOWED THIS PLAINTIFF YEARS AGO TO BE ALLOWED IN
- 26) G-P NOW THIS PLAINTIFF CAN HAVE MORE TIME TO FIGHT HIS CASE JUST FROM HAVING
- 27) MORE PHONE TIME TO FIGHT ONE OF THE LONGEST CASE'S IN MARICOPA COUNTY HISTORY WERE
- 28) PLAINTIFF'S HAS BEEN DENIED HIS SPEEDY TRIAL RIGHTS

- 29) 4. WRIGHT'S HEALTH BOTH PHYSICALLY AND MENTALLY HAS BEEN DAMAGED
- 30) BEYOND REPAIR, PLAINTIFF HAS 1ST HAND KNOWLEDGE OF PEOPLE HE COMMUNICATED
- 31) WITH THROUGH THE VENTS COMMITTING SUICIDE THAT IS DOCUMENTED IN MY
- 32) MENTAL HEALTH RECORDS PLAINTIFF WRIGHT LOST LOVE ONE, A CHILD, A BROTHER
- 33) A UNCLE AND WAS DENIED A PHONE CALL ON ALL EXCEPT ONE, THESE ALONE WITH A
- 34) MOST OF OTHERS PAINTS JUST ANOTHER PICTURE OF EXTRA PUNISHMENT WHILE BEING
- 35) PUNISHED.

- 36) DEFENDANTS CLAIM THAT VAIL DID NOT RESPOND TO ANY GRIEVANCES
- 37) FROM WRIGHT ASKING TO BE MOVED OUT OF CLOSED CUSTODY
- 38) EVERY TANK ORDER WRITTEN TO CPT VAIL WAS RELATED TO CLOSED CUSTODY AND
- 39) CPT VAIL AND/OR HIS DISIGNEE DID IN FACT RESPOND TO MY GRIEVANCES PLEASE
- 40) (EXHIBIT E) SECTION 1 GRIEVANCE # 17-24387 CAPTAIN VAIL / TANK ORDER STATED
- 41) 5/10/14 CAPTAIN VAIL RESPONDS / GRIEVANCE # 18-006756 CAPTAIN VAIL
- 42) RESPONED WITH HIS OWN WRITING AND SIGNATURE AGAIN / GRIEVANCE # 18-008715
- 43) CAPTAIN VAIL HAS A DISIGNEE ANSWER THIS ONE BUT AS CAPTAIN, SHOULD STILL HAVE BEEN INFORMED

D. VAIL IS ENTITLED TO QUALIFIED IMMUNITY

THE COURTS HAVE HELD WHEN AN OFFICIAL CLAIMS QUALIFIED IMMUNITY, THE COURT MUST GENERALLY DETERMINE WHETHER THE LAW WAS CLEARLY ESTABLISHED AT THE TIME THE DEFENDANT COMMITTED THE ALLEGEDLY ILLEGAL ACTS

- 1) HERE THE DEFENDANTS USE CASE LAW IN ANDERSON, 45 F. 3D AT 1316
- 2) (CONFINEMENT TO CELL 23-HOURS A DAY IS CONDITION CONTINGUATED BY IMPRISONMENT)
- 3) HAMPTON, NO. CV 03-1706 - PHX-NVW, 2006 WL 3497780, AT *10 - *11 (CONFINEMENT OF
- 4) PRISONER IN SOLENTARY CONFINEMENT FOR EIGHT YEARS DID NOT VIOLATE EIGHT AMENDMENT
- 5) WHERE PRISONER HAD ACCESS TO VISITATION, TELEPHONE CALLS, SEND AND RECEIVE LETTERS
- 6) HAVE ACCESS TO LIBRARY MATERIALS, AND COULD COMMUNICATE WITH INMATES IN OTHER
- 7) CELLS
- 8) THE DEFENDANT FAILED TO NOTE THAT PLAINTIFF WRIGHT IS NOT A CONVICTED
- 9) FELON BUT A PRE TRIAL DETAINEE, THAT CAN NOT AFFORD HIS BOND AND AFFORDS
- 10) DIFFERENT RIGHT THEN CONVICTED FELONS, MORE OVER HIS 14 AMENDMENT WAS
- 11) VIOLATED CLEARLY, EVEN SO THE PLAINTIFF HAS TO FIND A PRIOR CASE HOLDING THE
- 12) DEFENDANTS' EXACT ACTIONS UNCONSTITUTIONAL
- 13) ANDERSON V. CREIGHTON, 483 U.S. 635, 640, 107 S. CT. 3034
- 14) (1987); SEE ALSO HOPE V. PELZER, 536 U.S. 730, 739-40, 122 S. CT. 2508 (2002) (OFFICIALS
- 15) CAN BE ON NOTICE THAT THEIR CONDUCT VIOLATES ESTABLISHED LAW EVEN IN "NOVEL
- 16) CIRCUMSTANCES"; COURTS NEED NOT HAVE HELD THAT FUNDAMENTALLY SIMILAR CONDUCT
- 17) WAS UNLAWFUL TO DEFEAT QUALIFIED IMMUNITY.
- 18) OFFICIALS ARE EXPECTED TO USE COMMON SENSE IN ASSESSING THEIR LEGAL OBLIGATIONS.
- 19) GIEREL V. SKIVESTER, 244 F.3D 1182, 1189 (9TH CIR. 2001) (HOLDING THAT "EVEN IF THERE IS NO
- 20) CLOSELY ANALOGOUS CASE LAW, A RIGHT CAN BE CLEARLY ESTABLISHED ON THE BASIS OF COMMON
- 21) SENSE."); SEPULVEDA V. RAMIREZ, 967 F.2D 1413, 1416 (9TH CIR. 1992) (OFFICER WAS NOT IMMUNE
- 22) FOR CONDUCT THAT "RUNS CONTRARY TO COMMON SENSE DECENCY" AND STATE REGULATIONS
- 23) THE PLAINTIFFS 14TH AMENDMENT RIGHT TO BE FREE FROM ARBITRARY RISKS OF SERIOUS
- 24) PERSONAL INJURY DURING PRE-TRIAL DETAINMENT
- 25) WILLIAMS V. LANE, 851 F.2D 867, 882-83 (7TH CIR. 1988) (LACK OF A RATIONAL BASIS FOR
- 26) VARIOUS RESTRICTION IN PROTECTIVE CUSTODY DEFEATED QUALIFIED IMMUNITY
- 27) McMILLIAN V JOHNSON, 88 F.3D 1554, 1565 (11TH CIR. 1996) WHERE PUNISHMENT OF
- 28) PRETRIAL DETAINEES WAS GENERALLY FORBIDDEN, TRANSFERRING A DETAINEE TO DEATH
- 29) ROW FOR PUNITIVE REASONS WAS NOT PROTECTED BY IMMUNITY DESPITE LACK OF PRIOR
- 30) CASE IN POINT);
- 31) HERE THE PLAINTIFF WAS PLACED IN A MORE SECURED ENVIRONMENT THEN DEATH ROW
- 32) FOR PUNITIVE REASONS ONLY. IF THE INCIDENT IN QUESTION HAPPENED ON JULY
- 33) 28, 2010 AND PLAINTIFF WRIGHT WAS BOOKED IN MARICOPA COUNTY JAIL ON NOV 16, 2010
- 34) IN G-P THEN ONLY AFTER PLAINTIFF WAS PAGED 2'D (AND NOT FOUND GUILTY OF ANYTHING)
- 35) IT'S ONLY THEN WAS PLAINTIFF PLACED IN A WORSE SETTING THEN BEING LOCKED
- 36) DOWN IN DEATH ROW. YOU ONLY COMMUNICATE WITH OTHERS IN THE VENT BY SCREAMING,
- 37) IT IS INTIMIDATING. ALL OTHER CONDITIONS OF CONFINEMENT HAVE BEEN POINTED OUT IN
- 38) PLAINTIFFS RESPOND TO OPPOSE DEFENDANTS SUMMARY JUDGMENT.
- 39) V. CONCLUSION
- 40) PLAINTIFF HAS CLEARLY SHOWN EVIDENCE IN (EXHIBIT D) SECTION 1 THAT
- 41) PLAINTIFF TRIED TO EXHAUST GRIEVANCE AND EXHIBIT A SHOWS AT THE HIGHEST LEVEL ALL
- 42) SHOULD OF KNOWN ABOUT HOUSING ISSUE AND CONDITIONS OF CONFINEMENT THAT THE
- 43) SHERIFF'S COUNSEL ADVISED PLAINTIFF THAT A 1983 CIVIL COMPLAINT WAS HIS ONLY ACTION

I DECLARE (OR CERTIFY, VERIFY OR STATE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

RESPECTFULLY SUBMITTED SEPT 22, 2019
BY: ANTHONY J. WRIGHT (P715875)
Att'y J. Wright

MARICOPA COUNTY SHERIFF'S OFFICE
CERTIFICATION

I hereby certify that on this date September 25, 2019

I mailed the original and one (1) copy to the Clerk of the United States District Court, District of Arizona.

I further certify that copies of the original have been forwarded to:

___ Hon _____ United States District Court, District of Arizona.

___ Hon _____ United States District Court, District of Arizona.

___ Attorney General, State of Arizona, _____

___ Judge _____ Superior Court, Maricopa County, State of Arizona.

___ County Attorney, Maricopa County, State of Arizona Maxine Mak & Charles Trullinger

___ Public Defender, Maricopa County, State of Arizona _____

___ Attorney _____

✓ Other Richard A Bailey, 5010 E Mesquite Wood Ct, Phoenix, AZ 85044

✓ Sarah Lynn Barnes, Broening Oberg Woods & Wilson PC, 2800 N Central Ave., Ste. 1600, Phoenix, AZ 85004

a. Callaghan B3853
Legal Support Specialist Signature S/N

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